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COMMISSION ON HUMAN RIGHTS
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Agenda item 8

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED
TO ANY FORM OF DETENTION OR IMPRISONMENT

Argentina, Australia*, Austria, Brazil, Bulgaria, Cameroon*, Canada, Chile, Côte d'Ivoire*, Czech Republic, Denmark, Finland*, France, Germany, Hungary*, India, Ireland, Italy, Japan, Liechtenstein*, Luxembourg*, Netherlands, Norway*, Peru*, Portugal*, Slovakia*, Sweden*, Switzerland* and the United Kingdom of Great Britain and Northern Ireland: draft resolution

1997/... Right to freedom of opinion and expression

The Commission on Human Rights,

Guided by the Universal Declaration of Human Rights, which affirms the right to freedom of opinion and expression,

Mindful of the International Covenant on Civil and Political Rights, which reaffirms, in article 19, the right of everyone to hold opinions without interference, as well as the right to freedom of expression, including the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of their choice,

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Mindful also that the International Covenant on Civil and Political Rights also states that the exercise of the right to freedom of expression carries with it special duties and responsibilities and may therefore be subject to certain restrictions, but that these should be only such as are provided by law and are necessary for the respect of the rights and reputations of others, or for the protection of national security or public order (ordre public) or of public health or morals, and that any propaganda for war or any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law,

Mindful further of the need to ensure that unjustified invocation of national security to restrict the right to freedom of expression and information does not take place,

Taking note of the Johannesburg Principles on National Security, Freedom of Expression and Access to Information adopted by a group of experts meeting in South Africa on 1 October 1995, which are annexed to the report submitted by the Special Rapporteur to the Commission at its fifty-second session on the promotion and protection of the right to freedom of opinion and expression (E/CN.4/1996/39),

Considering the promotion and protection of the rights to freedom of opinion and expression, including the right to seek, receive and impart information, as well as the rights to peaceful assembly and association, to be essential to popular participation in decision-making processes and to the realization of all the rights set forth in international human rights instruments and to be interrelated with, and to enhance, the exercise of these human rights,

Considering also that a deterioration in the right to exercise freedom of expression could be indicative of a further weakening in the protection and enjoyment of human rights in a country,

Reaffirming the interrelation and interdependence between the exercise of freedom of opinion and expression and the full enjoyment of the freedom to seek, receive and impart information and the importance of a free flow and wider dissemination of information to and from developing countries,

Considering that the effective promotion and protection of the human rights of persons who exercise the right to freedom of opinion and expression are of fundamental importance to the safeguarding of human dignity,

Reaffirming that education is an integral component of the full and effective participation of persons in a free society, in particular for the full enjoyment of the right to freedom of opinion and expression, and that the eradication of illiteracy is very important to the achievement of these goals and to the development of the human person,

Recalling its resolution 1996/53 of 19 April 1996, in which it decided to renew the mandate of the Special Rapporteur for a further three years,

Deeply concerned at numerous reports of detention of, as well as discrimination, threats and acts of violence and harassment, including persecution and intimidation against, professionals in the field of information, including journalists, editors, writers and authors, translators, publishers, broadcasters, printers and distributors, and, in this context, taking note of all other resolutions of the Commission on Human Rights that address the question of the full enjoyment and exercise by everyone of the right to freedom of opinion and expression,

Taking note of the need to raise awareness about the interrelationship between the use and availability of new media of communication, including modern telecommunications technology, and the right to freedom of expression and information, and of the efforts made in this regard in a number of international and regional forums, and mindful of provisions of relevant instruments,

Deeply concerned that for women there exists a gap between the right to freedom of opinion and expression and the effective enjoyment of that right, and that this gap contributes to inadequate action by Governments in the integration of the human rights of women into the mainstream of their human rights activities,

1. Reaffirms its commitment to the principles contained in the International Covenant on Civil and Political Rights;

2. Takes note of the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (E/CN.4/1997/31 and Add.1) and of the comments and analysis contained therein, including that the right to freedom of opinion and expression is a prerequisite to ensuring public participation in decision-making processes;

3. Expresses its concern at the continuing problem of the inadequate resources, both human and material, provided to the Special Rapporteur and accordingly reiterates its request to the Secretary-General to provide all the

assistance necessary to the Special Rapporteur to fulfil his mandate effectively, in particular by strengthening the human and material resources placed at his disposal;

4. Requests the Secretary-General to consider ways of publicizing, including through the information website operated by the Centre for Human Rights and within the framework of the United Nations Decade for Human Rights Education, the work of the Special Rapporteur, as well as recommendations made by him;

5. Expresses its concern at the extensive occurrence of detention, long-term detention and extrajudicial killing, persecution and harassment, including through the abuse of legal provisions on criminal libel, of, and threats, acts of violence and discrimination directed at, persons who exercise the right to freedom of opinion and expression and the intrinsically linked rights to freedom of thought, conscience and religion, of peaceful assembly and freedom of association and the right to take part in the conduct of public affairs, and concerned in particular at such treatment of professionals in the field of information, including journalists, editors, writers, authors, translators, publishers, broadcasters, printers and distributors as well as persons who seek to promote the rights affirmed in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights and seek to educate others about them or who defend these rights and freedoms, including legal professionals and others who represent persons exercising those rights;

6. Also expresses its concern at the number of cases in which the violations referred to in paragraph 6 of the present resolution are facilitated and aggravated by several factors such as abuse of states of emergency, exercise of the powers specific to states of emergency without formal declaration, and too vague a definition of offences against State security;

7. Welcomes the release of persons detained for exercising these rights and freedoms, and encourages further progress in this regard;

8. Appeals to all States

(a) To ensure respect and support for the rights of all persons who exercise the right to freedom of opinion and expression, the rights to freedom of thought, conscience and religion, peaceful assembly and association and the right to take part in the conduct of public affairs or who seek to promote and

defend these rights and freedoms and, where any persons have been detained, subjected to violence or threats of violence and to harassment, including persecution and intimidation, solely for exercising these rights as laid down in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and other relevant human rights instruments, to take the appropriate steps to ensure the immediate cessation of these acts and to create conditions under which these acts may be less liable to occur;

(b) To ensure that persons seeking to exercise these rights and freedoms are not discriminated against, particularly in such areas as employment, housing and social services, and in this context to pay particular attention to the situation of women;

(c) To cooperate with and assist the Special Rapporteur in the performance of his tasks and to provide all information necessary in order to permit him fully to carry out his mandate;

9. Invites once again the working groups, representatives and special rapporteurs of the Commission on Human Rights to pay attention, within the framework of their mandates, to the situation of persons detained, subjected to violence, ill-treated or discriminated against for having exercised the right to freedom of opinion and expression as affirmed in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and other relevant human rights instruments;

10. Invites the working groups, representatives and special rapporteurs of the Commission on Human Rights, within their mandates, to take note of any deterioration in the right to freedom of expression and to consider whether such deterioration could signal a further weakening in the protection and enjoyment of human rights in a country;

11. Invites relevant United Nations bodies, mechanisms and procedures of the Commission on Human Rights, the Committee on the Elimination of Discrimination against Women and independent expert bodies, within their mandates, further to examine violations of the right to freedom of opinion and expression from a gender perspective, in cooperation with the Commission on the Status of Women;

12. Invites the Special Rapporteur, within the framework of his mandate,

(a) To draw the attention of the United Nations High Commissioner for Human Rights to those situations and cases regarding freedom of opinion and expression which are of particularly serious concern to the Special

Rapporteur, and encourages the High Commissioner, within his mandate, to take into account reports in this regard in the context of his activities to promote and protect human rights, with a view to preventing the occurrence and recurrence of human rights violations;

(b) In cooperation with the Special Rapporteur on violence against women, to continue to pay particular attention to the situation of women and the relationship between the effective promotion and protection of the right to freedom of opinion and expression and incidents of discrimination based on sex, creating obstacles for women with regard to their right to seek, receive and impart information, and to consider how these obstacles impede the ability of women to make informed choices in areas of particular importance to them, as well as in areas related to the general decision-making processes in the societies in which they live;

(c) To continue his efforts to cooperate with other special rapporteurs, special representatives, independent experts, working groups and other United Nations mechanisms and procedures in the field of human rights;

(d) To develop further his commentary on the right to seek and receive information and to expand on his observations and recommendations arising from communications;

(e) To continue to bear in mind the need to be able to respond effectively to credible and reliable information that comes before him, and invites him to continue to seek the views and comments of the Governments and others concerned in the elaboration of his report, as well as to continue to carry out his work with discretion and independence;

(f) To consider, in his next report, all aspects of the impact that the availability of new information technology may have on the equal opportunity of access to information and on the exercise of the right to freedom of expression as set out in the International Covenant on Civil and Political Rights;

13. Requests the Special Rapporteur to submit to the Commission at its fifty-fourth session a report covering the activities relating to his mandate and decides to continue its consideration of this question at its fifty-fourth session.